IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.1524 of 2000

The Commissioner,
Thothukudi Municipality ... Appellant/first respondent

Vs.

1.Tamil Nadu Municipalities Engineering Department,Water Supply, Revenue, Street Light Association, Mauiladuthurai, rep. by its Secretary Y.Seshan Bagu

2.The State of Tamil Nadu, rep. by its Special Commissioner & Secretary, Municipal Administration and Water Supply Department, Chennai-9.

3.The Commissioner, Municipal Administration, Ezhilagam, Chepauk, Chennai-5.

4.P.Murugan

5.A.Murugan

6.R.Murugavel

7.F.John Bosco

8.P.Kasirajan

9.P.Mundasamy
(Respondents 4 to 9 impleaded as per order of the Court dt.20.3.2003 made in WAMP 1157/03 in WA.1524/2000 by CJ & AKJ) ... Respondents/Respondents 2 & 3

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Writ appeal filed under Clause 15 of the Letters patent against the order dated 17.12.1999 made in W.P.No.17569 of 1993 filed under Artilce 226 of the constitution of India to issue a writ of Mandamus directing the respondents to regularise the members to the contingent staff working in the Tuticorin Municipality, who have completed five years of service or more.

For Appellant : Mrs.T.Kokilavani

For 1st Respondent : Mr.A.Abdul Wahab

For respondents 2&3 : Mr.R.Vijayakymar,
Government Advocate

For respondents 4 to 9 : Mr.G.Jeremiah

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JUDGMENT

(Order of the Court was made by P.SATHASIVAM, J.)

The Commissioner, Thoothukudi Municipality, aggrieved by the order of the learned single Judge dated 17.12.1999 made in W.P.No.17569 of 1993, has filed the above writ appeal

2. Heard the learned counsel appearing for the petitioner and the respondents.

3. The Tamil Nadu Municipalities Engineering Department, Water Supply, Revenue, Street Light Association, Mayiladuthurai, through its Secretary, filed W.P. Nos.14737 of 1992 before this court praying for quashing of the order of the third respondent, the Commissioner, Bodinaickanur Municipality dated 27.08.1992 and directing him to reinstate the petitioners in service with full backwages, continuity of service and all other attendant benefits. In W.P.No.18663 of 1992, the Association prayed for issuance of a Mandamus directing the respondents to regularise the members of the contingent staff, who have completed five years or more in the 108 Municipalities in the State of Tamil Nadu and bring them into regular employment. The same Association, in W.P.Nos.12108, 17569 and 19381 of 1993 and 1629 of 1994, also prayed for directions to the respondents to regularise the members of the contingent staff working in Mayuiladuthurai Municipality, Tuticorin Municipality, Thanjavur Municipality, and Palayamkottai Municipality. By a common order dated 17.12.1999, the learned single Judge, after considering the grievance of the members of the petitioner-Association, the stand taken by the Municipality and also the Government Order in

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G.O. Ms. No.125 Municipal Administration and Water Supply (M.E.III) Department dated 27.5.1999, issued the following direction :

> "The concerned Authority of the first respondent Township Municipality is directed to undertake the exercise of deciding each individual case where the petitioners have completed 240 days and they shall be reinstated with all backwages and other benefits. If they have completed 240 days, their services should be regularised. This exercise should be completed within two months. If the authority comes to a conclusion that the employees/petitioners have not worked for 240 days provided for malafide or ulterior consideration, he should give an opportunity and no adverse order will be passed against the petitioners without giving an opportunity of hearing. If any adverse order will be passed against the petitioners, the same will be kept under suspension for one month from the date of passing the order and intimated to them. The petitioners are at liberty to seek appropriate relief in accordance with law. It is not disputed that the employees(petitioners) are still continuing in service. So till final order is passed as directed above, the status quo should be maintained".

4. Though the above common order was passed in respect of the persons working in Bodinaickanur Municipality, Mayiladuthurai Municipality, Tuticorin Municipality, Thanjavur Municipality and Palayankottai Municipality, the fifth respondent therein, viz., the Commissioner, Tuticorin Municipality, alone has filed the above writ appeal. It is not clear whether the other Municipalities have filed writ appeals or implemented the order of the learned single Judge.

5. The learned counsel appearing for the appellant fairly states that during the pendency of the writ appeal, in view the order issued in the contempt proceedings, the services of most of the persons working in Tuticorin Municipality were regularised subject to G.O. Ms. No.125, Municipal Administration and Water Supply (M.E.III) Department dated 27.5.1999.

6. A verification of the order of the learned single Judge shows that the same contention was raised before the learned Judge and the learned single Judge, in para 7 of his order, considered the same and thereafter issued the directions as mentioned above. A perusal of the direction shows that it is the concerned Municipalities/Townships which have to undertake the exercise of deciding the claims of different individuals and find out whether he or she has completed 240 days of service and depending on the

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outcome, they shall be reinstated with all benefits. We are of the view that the course adopted and the ultimate direction issued cannot be faulted with. Inasmuch as it is the Municipality which has to verify the number of days worked/completed by the respondents from and out of their records, we do not find any error or valid ground for interference. Accordingly, the appeal fails and the same is dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To
1. The Secretary,
Tamil Nadu Municipalities Engineering
Department,Water Supply, Revenue,
Street Light Association, Mayiladuthurai.

2.The Special Commissioner &
Secretary, State of Tamil Nadu,
Municipal Administration
and Water Supply Department, Chennai-9.

3.The Commissioner, Municipal
Administration, Ezhilagam, Chepauk,
Chennai-5.

4.The Commissioner,
Thothukudi Municipality

+1cc to Mr.M.A.Abdul Wahab, Advocate Sr 12897
+1cc to Mr.T.Kokilavani, Advocate Sr 12888

VC (CO)
km/27.3.

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